

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) Criminal No.
JESSE R. BENTON,) 4:15-CR-103-JAJ-HCA
JOHN F. TATE, and)
DIMITRIOS N. KESARI,)
Defendants.)

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VIDEOTAPED DEPOSITION OF WESLEY YOO
Monday, September 28, 2015

Reported by:

Lori J. Goodin, RPR, CLR, CRR,

Job No: 14915

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3 The deposition of WESLEY YOO was
4 convened on Monday, September 28, 2015,
5 commencing at 10:02 a.m., at the offices of,
6 Barnes & Thornburg, 1717 Pennsylvania Avenue,
7 Northwest, Suite 500, Washington, D.C. 20006,
8 before Lori J. Goodin, Registered Professional
9 Reporter, Certified LiveNote Reporter, Certified
10 Realtime Reporter, Realtime Systems Administrator,
11 and Notary Public in and for the District of
12 Columbia.

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Carlos Garcia, Videographer

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13 EXHIBITS

14 GOVERNMENT

15	NO. DESCRIPTION	PAGE
16	1 CD containing Cellebrite Report of Exam	37
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22 YOO

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YOO

NO. DESCRIPTION

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5 Chain of custody document for laptop 68

Item IB44

6 Chain of custody document for iPhone 69

Item 1B43

(Original Exhibits retained by counsel.)

PROCEEDINGS

THE VIDEOGRAPHER: This is Disk
Number 1 of the video deposition of Wesley
Yoo, in the matter of United States of
America v. Jesse R. Benton, John F. Tate and
Dimitrios N. Kesari, in the United States
District Court for the Southern District of
Iowa, Criminal Number 4:15-CR-103-JAJ-HCA.

This deposition is being held at
1717 Pennsylvania Avenue, Northwest,
Washington, D.C. on September 28, 2015, at
approximately 10:02.

My name is Carlos Garcia, from the
firm of TransPerfect Legal Solutions and I am
the legal video specialist.

The court reporter is Lori Goodin,
in association with TransPerfect Legal
Solutions.

Will counsel please introduce
themselves.

MR. KRAVIS: Good morning everyone,
my name is Jonathan Kravis, and I represent
the United States.

MR. PILGER: I am Richard Pilger, I
also represent the United States.

1 MR. MILLS: Good morning. Laurin
2 Mills on behalf of John Tate. And since this
3 is a trial type deposition, I would like to
4 invoke the rule on witnesses.

5 MR. KRAVIS: Okay. Special Agent
6 Brooks, why don't you wait outside, thank
7 you. Just in case. I don't think you are
8 likely a trial witness, but just in case.

9 MR. BINNALL: Jesse Binnall,
10 J-E-S-S-E, last name B-I-N-N-A-L-L on behalf
11 of Dimitrios Kesari.

12 MR. HOWARD: Roscoe Howard with
13 Barnes & Thornburg. My last name is spelled
14 H-O-W-A-R-D. I represent Jesse Benton.

15 MS. SINFELT: Meena Sinfelt,
16 S-I-N-F-E-L-T, I also represent Jesse Benton,
17 with Barnes & Thornburg.

18 MR. HOWARD: Did you want the
19 paralegals to introduce themselves?

20 MR. KRAVIS: That's fine.

21 THE VIDEOGRAPHER: Would the court
22 reporter please swear in the witness.

23 * * *

24 WESLEY J. YOO,
25 a witness called for examination, having been

1 first duly sworn, was examined and testified as
2 follows:

3 THE VIDEOGRAPHER: Please proceed.

4 DIRECT EXAMINATION

5 BY MR. KRAVIS:

6 Q. Good morning, sir.

7 A. Good morning.

8 Q. What is your name?

9 A. My name is Wesley J. Yoo. My last
10 name is spelled Y-O-O.

11 Q. And, what do you do for a living?

12 A. I am a special agent for the Federal
13 Bureau of Investigation.

14 Q. How long have you been a special
15 agent with the Federal Bureau of Investigation?

16 A. I have been a special agent for
17 approximately 15 years.

18 Q. And, what is your current assignment
19 with the Federal Bureau of Investigation?

20 A. I am currently assigned as a Special
21 Agent Forensic Examiner With the Computer
22 Analysis Response Team which is primarily
23 responsible for processing and analysis of
24 digital media.

25 Q. And, how long have you been a

1 forensic examiner with the FBI?

2 A. I have been with the FBI as a
3 forensic examiner for approximately ten years.

4 Q. And what exactly does a forensic
5 examiner with the FBI do?

6 A. As a forensic examiner, I am
7 responsible for the processing and analysis of
8 information and potential evidentiary material
9 from digital storage media.

10 For example, hard drives, thumb
11 drives, and so forth.

12 Q. Did you receive any specialized
13 training to allow you to do that work?

14 A. Yes. In order to be -- in order to
15 be certified as a forensic examiner, there is a
16 lengthy process that one must go through which
17 involves a specialized training, and at the end
18 of that training it involves testing and then
19 ultimately a certification of you being certified
20 as a forensic examiner.

21 Q. You said that is a lengthy process.
22 About how long, exactly, is that process?

23 A. It depends on the individual, but
24 when I went through the program it took
25 approximately about two years.

1 Q. And, you said that during those two
2 years you received training?

3 A. Specialized training, yes, sir.

4 For example, one of the trainings
5 that you have to take as part of your training
6 curriculum is A Plus, which deals with hardware,
7 software, and at the end of that training you are
8 then certified to handle those types of material
9 in your forensic exams.

10 Q. And did you also say that part of
11 your two years of training required you to do
12 some testing in this area?

13 A. Yes. At the end of each process an
14 individual is routinely checked to make sure that
15 you have a understanding of what that field
16 entails.

17 So, the tools that you are using to,
18 the tools that you are using on a daily basis to
19 do your job, you are tested on. And then
20 ultimately, you know, you are given a pass/fail.

21 Q. And how did you do on those tests?

22 A. I passed every single one of those.

23 Q. And at the end of your training
24 after you passed the tests, what, if any
25 certifications did you receive from the FBI?

1 A. I was certified to deal with what
2 they call Window platforms which are
3 Windows-based operating systems.

4 And then later on I received the
5 cell phone, so I was certified to do cellphone.
6 And the other certifications that I was given was
7 dealing with Apple McIntosh platforms.

8 Q. And when was it that you received
9 that certification from the FBI?

10 A. In 2004 or '5. I can't recall
11 exactly. But, I believe it is in my curriculum
12 vitae.

13 Q. And, since the time that you
14 received that certification from the FBI, what,
15 if anything, have you done to keep up to date
16 with developments in your field?

17 A. As part of best practices that
18 oversees our program, everyone that is certified
19 as a forensic examiner, on an annual basis must
20 undergo a proficiency test as well as additional
21 training to maintain the knowledge in the field,
22 as well as maintaining the best practices that
23 is, that are involved in the processing and
24 analysis of the digital media.

25 Q. And how have you done on your most

1 recent proficiency exams?

2 A. I have passed.

3 Q. Approximately how many cell phones
4 would you say you have analyzed in your career
5 with the FBI?

6 A. Numerous. I mean, I think it must
7 be maybe hundreds.

8 Q. And, about how many computers have
9 you analyzed in your career with the FBI?

10 A. Again, too many to count, but
11 numerous.

12 Q. And, without listing all of them,
13 what are some of the certifications that you hold
14 in this field?

15 A. Like I stated before, again Windows,
16 the most recent one that I have been certified
17 was through the SANS organization which deals
18 with, again, Windows platform, forensic exam of
19 digital media. So, that was my most recent
20 certification that I have.

21 MR. KRAVIS: At this time the
22 government offers Special Agent Wesley Yoo as
23 an expert in the field of digital forensics.

24 MR. MILLS: Would it be possible for
25 me to voir dire the witness.

1 MR. KRAVIS: Of course.

2 VOIR DIRE EXAMINATION

3 BY MR. MILLS:

4 Q. Good morning Agent Yoo, I am Laurin
5 Mills, counsel for Mr. Tate.

6 You have an undergraduate degree in
7 biology. Is that correct?

8 A. That is correct.

9 Q. And you received that degree in
10 1991?

11 A. That is correct.

12 Q. And you also have an undergraduate
13 degree in chemistry; is that right?

14 A. That is correct.

15 Q. And you received that degree in
16 1992, right?

17 A. That's correct.

18 Q. In 1996 you received a master's
19 degree in analytical chemistry; is that right?

20 A. That's correct.

21 Q. And from January of 1996 until May
22 of 2000, you worked as a chemist; is that right?

23 A. That is correct, I believe, yes.

24 Q. And not as a computer forensic
25 analyst?

1 A. That is correct.

2 Q. I'm going to show you what we will
3 mark as exhibit, since you already have two
4 exhibits marked, I will call this Exhibit 3.

5 MR. KRAVIS: Very well.

6 (Yoo Exhibit Number 3
7 marked for identification.)

8 BY MR. KRAVIS:

9 Q. Agent Yoo, you have the Exhibit 3 in
10 front of you, don't you?

11 A. Yes.

12 Q. Can you identify it?

13 A. Yes.

14 Q. Let me help you. Exhibit 3 is the
15 Government's Notice of Expert Witnesses; is that
16 correct?

17 A. Yes.

18 Q. And that is your name on the first
19 page in bold letters, Wesley Yoo; is that
20 correct?

21 A. That is correct.

22 Q. Okay. And attached to Exhibit 3
23 toward the end is a four-page document entitled
24 Curriculum Vitae, correct?

25 A. Yes.

1 Q. And this is the curriculum vitae of
2 Wesley J. Yoo; is that correct?

3 A. That is correct.

4 Q. And a curriculum vitae is a fancy
5 name for a resumé; is that right?

6 A. Yes.

7 Q. And at the bottom of Page 3 of 4 is
8 a heading called Publications.

9 Do you see that?

10 A. Yes.

11 Q. And, you have been an author on
12 three published academic papers; is that right?

13 A. Yes, according to this, yes.

14 Q. And isn't it true that all of the
15 academic papers on which you have been an author
16 have been in the field of chemistry?

17 A. That is correct.

18 Q. And they all dealt with
19 supercritical fluid extraction; is that correct?

20 A. Yes.

21 Q. And they are all published in the
22 1990s?

23 A. That is correct.

24 Q. And your resumé also lists five
25 academic presentations, correct?

1 A. Goodness gracious. Yes.

2 Q. And all of those presentations were
3 also in the 1990s?

4 A. Yes.

5 Q. And all of them were in the field of
6 chemistry; is that right?

7 A. Yes.

8 Q. Okay. And, in fact, your resumé
9 does not list you as an author on a single
10 published paper in the field of computer
11 forensics, does it?

12 A. That is correct.

13 Q. And, it doesn't list you as an
14 author on a single published paper in the field
15 of computer science, does it?

16 A. That is correct.

17 Q. Okay. And it doesn't list a single
18 presentation in the field of computer science,
19 does it?

20 A. That is correct.

21 Q. And your resumé does not list a
22 single presentation in the field of computer
23 forensics, does it?

24 A. That is correct.

25 Q. Okay. And your resumé does not list

1 any instances where you have been qualified as an
2 expert witness in the field of computer science,
3 does it?

4 A. That is correct.

5 Q. And it doesn't list a single
6 instance where you have been qualified as an
7 expert witness in digital forensic sciences, does
8 it?

9 A. That is correct.

10 Q. Okay.

11 MR. MILLS: Your witness.

12 DIRECT EXAMINATION (resumed)

13 BY MR. KRAVIS:

14 Q. Thank you. Very briefly Special
15 Agent Yoo, in your role as a forensic examiner
16 for the FBI, is it your job to publish papers or
17 is it your job to analyze digital evidence in
18 criminal investigations?

19 A. My job is to process digital
20 evidence, not publish.

21 Q. Now, Special Agent Yoo, I want to
22 ask you some questions about your field, about
23 how digital forensics works.

24 What are the steps you take to
25 perform a forensic analysis of an electronic

1 device like a computer?

2 A. In general terms, the Number 1 most
3 important thing is the integrity of the
4 evidentiary material.

5 Q. Okay. And what is it that you mean
6 by the integrity of the evidentiary material?

7 A. The best practices are utilized to
8 ensure that I am not introducing any artifacts to
9 the evidence where thereby I'm changing stuff or
10 making modifications, additions, deletions to the
11 material that I am analyzing.

12 Q. And how is that you -- or what are
13 the steps that you take to make sure that you are
14 not modifying the electronic evidence that you
15 are charged with examining?

16 A. The initial process would involve
17 some kind of a baseline.

18 So, the first thing I would do is do
19 an inventory of all of the material that I will
20 be processing or analyzing from a physical
21 standpoint as well as what I call a digital
22 perspective.

23 So, for example, I have to account
24 for everything that is within a digital storage
25 media.

1 For example, in a hard drive, I've
2 got to make sure that what I am looking at is
3 everything that is within the hard drive. And I
4 have to account for that so that my beginning and
5 my ending will be exactly the same.

6 Another tool that we use is write
7 protection devices.

8 Q. And what are write protection
9 devices?

10 A. It could be a physical device or a
11 software device where it is connected with your
12 digital storage media and it prohibits any write
13 functions to that particular device.

14 So that anything I do gets stopped
15 by this particular device.

16 Q. And is that one of the methods you
17 used to make sure that you are not modifying the
18 digital evidence that you are examining?

19 A. That is correct. Yes.

20 Q. Go ahead.

21 A. I did use a write protection device
22 for all of my processing and all of my analysis
23 in this particular case.

24 Q. So, once you have done that physical
25 and digital examination of the electronic devices

1 that you are examining, what is the next thing do
2 you?

3 A. The other tool or practice that we
4 utilize to ensure that no modifications are done
5 is on a regular basis what we do is MD5 algorithm
6 checks.

7 Q. And what are MD5 algorithm checks?

8 A. Basically it is a fancy mathematical
9 computation where you run the process and it
10 generates a unique number, which is like a
11 fingerprint of, let's say, for example, a file.

12 You have a file. You run the fancy
13 algorithm. It generates a unique number and that
14 particular number should be maintained throughout
15 your whole processing.

16 So, you compare that particular
17 number at the beginning and at interim steps to
18 ensure that that number stays consistent. And,
19 thereby, it indicates that no changes have been
20 made.

21 Q. And, once you have done the initial
22 review of the items and made sure these checks
23 that you have described are in place, the
24 algorithm, the write protection, what is it that
25 you do with an electronic device when you receive

1 it to begin your analysis?

2 A. Again, with all of those best
3 practices in place, the general inventory is done
4 where I note the serial number, any unique
5 features associated with the device.

6 Again, total accountability at the
7 beginning.

8 And then, what we do is take what we
9 call a bit-by-bit image which is an exact
10 duplicate copy of the storage media so that you
11 are not working off of a, the original evidence,
12 you are actually working off a bit-by-bit copy,
13 which is an exact copy.

14 Q. And why do you do that? Why is it
15 that it is important in your work to make sure
16 that you are working off an exact copy of the
17 evidence rather than the original device itself?

18 A. Because your best evidence is the
19 original. And you do not want to compromise that
20 best evidence.

21 But, using a bit-by-bit copy, you
22 ensure that you have the integrity of the
23 original evidence, but at the same time you have
24 confirmation that it is an exact copy.

25 Q. And you touched on this a moment

1 ago, but just to make the point clearly, what is
2 the evidence you have or the check to make sure
3 that the duplicate that you have created is an
4 exact bit-by-bit copy of the original item?

5 A. Again, it goes back to the MD5
6 algorithm where, when you make your bit-by-bit
7 copy, an MD5 number is generated for that
8 particular bit-by-bit copy.

9 That number is compared to
10 throughout the whole analysis process at
11 particular points to ensure that that number
12 stays consistent with the beginning and at the
13 end.

14 Q. Once you have made the bit-by-bit
15 copy and confirmed that the bit-by-bit copy is an
16 exact duplicate of the original device, what is
17 the next step in your analysis?

18 A. The next step is using that
19 particular bit-by-bit copy, is the processing
20 phase which we use specialized tools to parse
21 through that image and it will go through the
22 image and pull out deleted files, special
23 categories like that, e-mails, documents, so that
24 the end user, in this case a case agent, can go
25 through the material and review for potential

1 evidentiary material.

2 Q. And is it your job to go through the
3 copy or image of the item to find relevant
4 evidence?

5 A. No, it is not.

6 Q. Whose job is it?

7 A. That particular responsibility falls
8 on the case agent.

9 Q. And, what is the platform, or tool,
10 or network you use to make the analysis that you
11 do available to the case agent to go through and
12 identify relevant material?

13 A. We have a system called CAIR.

14 Q. What does CAIR stand for?

15 A. Case Agent Investigative Review.

16 Q. And what is CAIR?

17 A. CAIR is a utility that we use to
18 provide the case agent a platform to review the
19 material that I had processed in a format which
20 is readable.

21 And that is some, of the material
22 cannot be read in a very easy format. So,
23 e-mails show up as e-mails, documents show up as
24 documents.

25 Q. And who is responsible for uploading

1 the materials to the CAIR System?

2 A. I am.

3 Q. And what happens to the materials
4 after they are uploaded to the CAIR System?

5 A. Once it is uploaded into the CAIR
6 System, the agent will go through the material
7 looking for potential evidentiary material.

8 Once the agent deems that a
9 particular file could be of evidentiary material,
10 he or she will bookmark that particular file for
11 maybe further investigative review or for further
12 analysis and ultimately an FTK Report is
13 generated if it is deemed relevant.

14 Q. I want to ask you some questions now
15 about your work on this case.

16 Were you asked to perform forensic
17 analysis like the one that you have just
18 described on a computer in this case?

19 A. Yes.

20 Q. And, did you prepare a report
21 explaining the steps that you took to analyze the
22 computer in this case?

23 A. Yes.

24 Q. Now, as you sit here, do you
25 remember the serial number of the computer that

1 you were asked to examine?

2 A. No, I do not.

3 Q. During your analysis, did you record
4 the serial number of the computer anywhere?

5 A. Yes, I did. In my notes.

6 Q. And, is it recorded also in your
7 report?

8 A. Yes.

9 Q. And the serial number of the
10 computer that you recorded in your report, was it
11 recorded accurately when you put it in the
12 report?

13 A. Yes.

14 Q. In fact, is it part of your job to
15 make sure that you are accurately recording the
16 serial numbers of the items that you examined?

17 A. That is correct, yes.

18 Q. And did you document the serial
19 number of the computer contemporaneously, or as
20 you were doing your work on the computer?

21 A. Yes, I did.

22 Q. Okay. I'm going to show you what
23 has been marked for identification and shown to
24 defense counsel as Government's Exhibit 2. Do
25 you recognize Government's Exhibit 2?

1 (Government's Exhibit Number 2
2 marked for identification.)

3 THE WITNESS: Yes.

4 BY MR. KRAVIS:

5 Q. What is Government's Exhibit 2?

6 A. It is my Dell Recs Report of
7 Examination for this particular case.

8 Q. And do you see the serial number of
9 the computer that you examined for this case
10 written on the report?

11 A. Yes.

12 Q. Is that next to where it says
13 Item 1B44?

14 A. Yes.

15 Q. Okay. I'm going to ask you to read
16 out loud now the serial number that you recorded
17 for the computer on your report.

18 A. The serial number for the computer
19 is C02JG3N6DKQ2.

20 Q. Thank you Special Agent Yoo.

21 And I'm taking back from you now
22 Government's Exhibit 2.

23 Now, what did you do with that
24 computer?

25 A. Again as I stated before, a lengthy

1 inventory process was performed. Then, the next
2 step involved the archival image, archival image
3 of the digital storage media that was within the
4 laptop, in this particular case.

5 And then, processing the image so
6 that the case agent can review the material.

7 Q. Do you remember earlier in your
8 testimony you talked about the steps that you
9 take to ensure that the copy of the item that you
10 are working from is bit-by-bit identical to the
11 original, the fancy algorithm as you put it and
12 so forth?

13 A. Yes.

14 Q. Did you take those steps in your
15 analysis of the computer in this case?

16 A. Yes, I did.

17 Q. And what were the results of those
18 checks that you did throughout the process on
19 your examination of the computer in this case?

20 A. The checks were consistent from the
21 beginning to the end.

22 Q. Now, earlier in your testimony you
23 also talked about the CAIR System. Do you
24 remember that?

25 A. Yes.

1 Q. Okay. What did you do with the
2 results of the computer that you analyzed in this
3 case when you had completed your analysis?

4 A. I provided the material for the CAIR
5 System for further review to the case agent so
6 that the potential evidentiary material can be
7 searched for.

8 Q. And, does the CAIR System archive or
9 categorize, analyze digital evidence using case
10 ID numbers to make sure that the case agent is
11 looking at the right thing when they log onto the
12 CAIR System?

13 A. Yes. When I set out the CAIR System
14 I have to ensure that it is a unique number
15 associated with the request by the case agent.

16 Q. And did you use such a unique case
17 ID number in this case?

18 A. Yes, I did.

19 Q. As you sit here today, do you
20 remember off the top of your head, the unique
21 Case ID Number you used for this case?

22 A. No.

23 Q. Okay. I'm going to show you again
24 what has been marked and provided to defense
25 counsel as Government's Exhibit 2, your report.

1 Did you record on your report the
2 unique Case ID Number you used for this case on
3 the CAIR System?

4 And you can look at the whole
5 report. But I will just direct your attention to
6 the top right corner of the first page.

7 A. Yes.

8 Q. And was that unique Case ID Number
9 accurate when you wrote it on your report?

10 A. Yes.

11 Q. In fact, it is a part of your job to
12 make sure that the Case ID Numbers are accurate
13 so you don't mix-up evidence for different cases?

14 A. That is correct.

15 Q. Okay. And did you record the Case
16 ID Number as you were doing the work on this
17 case?

18 A. Yes, I did.

19 Q. Okay. Can you read from your report
20 the unique Case ID Number that you used for this
21 case?

22 A. It is 56D-WF-2881718.

23 Q. And, Special Agent Yoo, I'm just
24 going to collect Government's Exhibit 2 from you
25 again.

1 And, after you put the results of
2 your analysis of the computer in this case on the
3 CAIR System, did you do any further work with
4 that material or was it just turned over to the
5 case agent for review?

6 A. It was turned -- for the work in --
7 what sense?

8 Q. I just mean, after -- let me try to
9 ask the question a better way.

10 A. Okay.

11 Q. After you put the results of the
12 computer search on the CAIR System, whose
13 responsibility is it at that point to do any
14 further analysis on the material you have put on
15 the CAIR System?

16 A. It was the case agent's.

17 Q. Okay. Now, in addition to the
18 computer, were you also asked to provide a
19 digital analysis of a cell phone in this case?

20 A. Yes.

21 Q. And, as you sit here today, do you
22 remember the serial number of the cell phone that
23 you were asked to analyze?

24 A. No.

25 Q. Did you record the serial number of

1 the cell phone you were asked to analyze in your
2 report?

3 A. Yes.

4 Q. I'm going to show you again
5 Government's Exhibit 2. Was the serial number of
6 the cell phone accurate when you recorded it?

7 A. Yes.

8 Q. And, again, did you record the
9 serial number of the phone like with the
10 computer, at the same time that you were doing
11 your work on the case?

12 A. Yes, I did.

13 Q. Okay. I'm going to direct your
14 attention to the Line 1B43 on the report and ask
15 you to read out loud the serial number of the
16 cell phone that you analyzed in this case.

17 A. The cellphone is an Apple iPhone and
18 the serial number is C39HL2XNDTC1.

19 Q. Thank you, Special Agent Yoo.

20 I'm going to collect Government's
21 Exhibit 2 from you.

22 Now, as with the computer, when you
23 were doing the analysis of the cell phone in this
24 case, did you use the tools or methods that we
25 talked about earlier to make sure that your image

1 of the cell phone was a bit-for-bit copy of the
2 contents of the cell phone itself?

3 A. In processing the cell phone, a
4 different approach was taken, due to the fact
5 that limitations with the tools that were
6 available to me did not preclude me to use
7 certain functions.

8 For example, access to e-mail was
9 rather difficult so that the numerous tools,
10 several tools had to be used to extrapolate the
11 information that was requested by the case agent.

12 And, in terms of write protection,
13 and again it is not feasible for a particular
14 device, mobile devices.

15 Q. So, what are the steps that you took
16 to perform your digital analysis of the cell
17 phone in this case?

18 A. Again, just like the laptop, best
19 practice involves inventory of the material that
20 you are processing.

21 And to ensure that you do not
22 introduce any artifacts to your analysis, you do
23 not, I guess, step on or go through a process
24 where you are changing data or information on the
25 cell phone.

1 And, in this case instead of taking
2 a very aggressive approach to extrapolating
3 information requested by the case agent, a
4 logical extraction was performed rather than a
5 physical.

6 Q. What do you mean by rather than take
7 an aggressive approach? What do you mean by an
8 aggressive approach?

9 A. Aggressive in the sense that in
10 order to get at information which may not be
11 readily available, you must, there are ways to
12 actually get at that information by making
13 additions and modifications to the phone.

14 Q. So, am I right that what you are
15 saying is there are methods you can use to try to
16 get more information out of the phone that
17 involve adding or modifying the phone in some
18 way?

19 MR. BINNALL: Objection, leading.

20 BY MR. KRAVIS:

21 Q. Go ahead.

22 A. I could have taken an, an approach
23 where I could have made changes to the phone, for
24 example, jailbreaking is a common terminology.

25 Q. What is jailbreaking?

1 A. Jailbreaking is actually making
2 changes to the operating system so that you can
3 access the whole file system on the phone.

4 Q. Did you, in your analysis of the
5 cell phone in this case, use jailbreaking or some
6 other aggressive search tool?

7 A. No. I did not.

8 Q. Why not?

9 A. Because I did not want to introduce
10 in artifacts or make any changes to the phone
11 when it was, when I determined that the laptop
12 might potentially contain the same type of
13 information that was on the phone.

14 Q. So, because you chose not to take
15 more aggressive steps in analyzing the phone,
16 were there some items on the phone that you did
17 not recover in your forensic analysis of the
18 phone?

19 A. That is correct.

20 Q. What -- well, let me ask a better
21 way.

22 What items were you not able to
23 extract from the phone because you chose not to
24 use the more aggressive methods?

25 A. E-mail, specifically.

1 Q. If you were not able to get the
2 e-mails, what were you able to extract from the
3 phone?

4 A. Photos, music, videos, some text
5 messages.

6 Q. And, the items that you were able to
7 recover from the cellphone, did you put those up
8 on the CAIR System like with the computer, or did
9 you do something else?

10 A. I did something else.

11 Q. What was it that you did with the
12 materials that you were able to extract from the
13 cell phone?

14 A. A report was generated for the case
15 agent to further review the material that was
16 extrapolated from the cell phone.

17 Q. Okay. I'm going to show you now
18 what has been marked for identification and shown
19 to defense counsel as Government's Exhibit
20 Number 1.

21 (Government's Exhibit Number 1
22 marked for identification.)

23 BY MR. KRAVIS:

24 Q. Do you recognize Government's
25 Exhibit Number 1?

1 A. Yes.

2 Q. What was Government's Exhibit
3 Number 1?

4 A. It was a Cellebrite report of exam.

5 Q. And, what is actually in front of
6 you, Government's Exhibit 1, is a CD that can
7 play on a computer, right?

8 A. That is correct.

9 Q. And have you had a chance to examine
10 the contents of this particular CD?

11 A. Yes.

12 Q. And what is it that is on this
13 particular CD?

14 A. It is the Cellebrite report of the
15 iPhone belonging to Mr. Kesari.

16 Q. That is the phone that you analyzed
17 in this case?

18 A. Yes.

19 Q. And after you looked at the contents
20 of the CD, did you make any markings on the CD so
21 that you would be able to recognize it here at
22 this deposition?

23 A. Yes.

24 Q. What are the markings you made on
25 this CD?

1 A. I see my initials on the right lower
2 corner of the CD.

3 Q. Okay. At this time the government
4 moves Exhibit Number 1 as redacted into evidence.

5 MR. BINNALL: Objection to
6 foundation.

7 MR. KRAVIS: May I have just a
8 moment, please? Thank you Special Agent Yoo,
9 I have no further questions.

10 CROSS-EXAMINATION

11 BY MR. MILLS:

12 Q. Good morning again, Agent Yoo.
13 I'm going to hand you what we will
14 mark as Exhibit Number 4.

15 (Yoo Exhibit Number 4
16 marked for identification.)

17 MR. KRAVIS: Thank you.

18 BY MR. MILLS:

19 Q. Exhibit Number 4 is a Report of
20 Examination, correct?

21 A. Yes.

22 Q. And the date of this report is
23 August the 4th, 2015, is that right?

24 A. That is correct.

25 Q. And, if you turn to Page 4 of 4 of

1 the report, that is your name there; isn't that
2 right?

3 A. Yes.

4 Q. But you did not sign Exhibit
5 Number 4, did you?

6 A. I believe the official report exam
7 has my signature.

8 Q. Okay. So, this, so the exhibit that
9 is in front of you right now is not the official
10 report, is it?

11 A. It may be a copy.

12 Q. Let me ask you this. Did you
13 actually write Exhibit 4?

14 A. Yes, I did.

15 Q. Okay. Did anyone assist you?

16 A. Nobody assisted me.

17 Q. Okay. On what date did you create
18 Exhibit 4?

19 A. August the 4th. Based on the date
20 of the report of exam on the first page.

21 Q. Do you see the line that says
22 Reference on the first page? Toward the top?

23 A. Reference, yes, Service Request
24 Date.

25 Q. And the service request is dated

1 March 4th, 2014. Is that correct?

2 A. That is correct.

3 Q. And the Service Request ID Number is
4 60336.

5 MR. KRAVIS: Objection, calls for
6 hearsay.

7 BY MR. MILLS:

8 Q. That is what it says on your report,
9 correct?

10 A. That is what it says on my report.

11 Q. Okay. And, but, the date the items
12 were received was listed as May 29th, 2014; is
13 that right?

14 MR. KRAVIS: Objection, calls for
15 hearsay.

16 BY MR. MILLS:

17 Q. That is what your report says,
18 right?

19 A. That is correct.

20 Q. Okay. So there was almost a
21 three-month delay between the date of the service
22 request and your receipt of the items; is that
23 right?

24 A. That is correct.

25 Q. And the report says that the items

1 submitted were an Apple MacIntosh Mini.

2 MR. KRAVIS: Objection, calls for
3 hearsay. Object to the question about the
4 contents of the report which is hearsay
5 without establishing a foundation that the
6 witness does not recall or needs to be
7 impeached with the report. You can answer.

8 BY MR. MILLS:

9 Q. Okay. Do you recall answering a
10 service request for an Apple MacIntosh Mini?

11 MR. KRAVIS: Objection to witness
12 answering the questions with the report in
13 front of him if the questions are not about
14 the report.

15 BY MR. MILLS:

16 Q. Okay. Go ahead, you can answer.

17 A. That is what the report says.

18 Q. Okay. Let me ask you this
19 independently. You can take the report away.
20 Turn the report over.

21 Do you recall in connection with
22 this case doing a review of an Apple MacIntosh
23 Mini?

24 A. Yes, sir.

25 Q. And do you recall the serial number

1 of the Apple MacIntosh Mini that you reviewed?

2 A. No.

3 Q. If you turn Exhibit 4 over. Does
4 that refresh your recollection?

5 A. Yes.

6 Q. Okay. And what was the serial
7 number of the Apple MacIntosh Mini that you
8 reviewed?

9 A. It looks like the serial number is
10 F4KJW7VVF193.

11 Q. Thank you. Now, did you review more
12 than one -- strike that.

13 The number you just read was for an
14 Apple iPad Mini; is that correct?

15 A. Yes.

16 Q. Okay. And I think I asked you about
17 an Apple MacIntosh Mini?

18 A. I'm sorry.

19 Q. If you can look to the line above
20 that, do you see Apple MacIntosh Mini?

21 A. Yes.

22 Q. And do you recall actually reviewing
23 an Apple MacIntosh Mini in connection with this
24 case?

25 A. Yes.

1 Q. What was the serial number of the
2 Apple MacIntosh Mini that you investigated?

3 A. The serial number is D2HHQ00CDTCK.

4 Q. Okay. And you also reviewed an
5 Apple iPad Mini. Is that correct?

6 A. Yes.

7 Q. Okay. And if you take a look at
8 Exhibit 4, does that refresh your recollection of
9 the serial number of the Apple iPad Mini that you
10 reviewed?

11 A. Yes.

12 Q. And what is the serial number of the
13 Apple iPad Mini that you reviewed?

14 MR. KRAVIS: Objection, vague. The
15 report lists two different Apple iPad Minis.

16 MR. MILLS: That's a fair objection.

17 BY MR. MILLS:

18 Q. How many Apple iPad Minis did you
19 review?

20 A. To the best of my recollection I
21 reviewed or processed two iPad Minis.

22 Q. Okay. Can you tell us for the
23 record the serial numbers of the two Apple iPad
24 Minis that you processed?

25 A. Based on my, based on this

1 particular report, they both had the same serial
2 number which is F4KJW7VVF193.

3 Q. Okay. Is it your testimony they
4 both have the same serial number?

5 A. Based on this report it looks like
6 it, yes.

7 Q. I'm going to ask you to look closely
8 at the second Apple iPad Mini. It is a similar
9 serial number, but I don't believe it is the
10 same; is that correct?

11 A. Oh, I'm sorry, yes, you are correct,
12 yes.

13 Q. And what is the, the item listed
14 1B16, what is the serial number for that?

15 A. The serial number for Item 1B16 is
16 F4KJQ8YSF193.

17 Q. Okay. Now, all of those devices
18 belong to Mr. Kesari, correct?

19 MR. KRAVIS: Objection, lack of
20 foundation. Calls for hearsay.

21 BY MR. MILLS:

22 Q. Okay. Do you know who the devices
23 belong to?

24 A. Yes, I believe so.

25 Q. Okay. And who do they belong to?

1 MR. KRAVIS: Objection, lack of
2 foundation. Calls for hearsay.

3 BY MR. MILLS:

4 Q. You can answer.

5 A. I believe this belongs to
6 Mr. Sorenson.

7 Q. Mr. Sorenson. So, these are
8 Mr. Sorenson's devices?

9 MR. KRAVIS: Objection, calls for
10 hearsay.

11 BY MR. MILLS:

12 Q. Okay.

13 MR. KRAVIS: You can answer the last
14 question.

15 THE WITNESS: To the best of my
16 recollection, I believe it is Mr. Sorenson's,
17 yes.

18 BY MR. MILLS:

19 Q. Okay. Now, let me take you to, back
20 to Exhibit Number 2.

21 And Mr. Kravis asked you about
22 Exhibit Number 2, correct?

23 A. Yes.

24 Q. And that is your report of
25 examination dated August 17th, 2015?

1 A. August, yes.

2 Q. Okay. And, did you sign Exhibit
3 Number 2?

4 A. Yes, I did.

5 Q. Okay. Where is your signature
6 found?

7 A. Again, I believe this is a copy.

8 Q. Okay. So, the Exhibit Number 2 that
9 is in front of you is not signed; is that
10 correct?

11 A. That is correct.

12 Q. Okay. Do you know if it varies in
13 any way from the version you signed?

14 A. It does not.

15 Q. Okay. Now, the devices in Exhibit
16 Number 2 belong to Mr. Kesari, correct?

17 MR. KRAVIS: Objection, lack of
18 foundation. Calls for hearsay.

19 BY MR. MILLS:

20 Q. Okay. Do you know who they belong
21 to?

22 A. Mr. Kesari.

23 Q. Okay. What e-mail client software
24 was installed on each device?

25 A. Again, I can't recall because my

1 responsibility does not delve into that
2 particular area other than maybe a cursory look.

3 But, I do not know.

4 Q. Okay. Now, on your report,
5 Exhibit 2, you don't state what date your
6 examination took place, do you?

7 A. What page are you referring to?

8 Q. On any page of Exhibit Number 2?

9 A. No, it does not specify a date.

10 Q. Okay. And it doesn't list any
11 e-mail messages that were located in your search,
12 does it?

13 A. No, it does not. Because again,
14 that is not my responsibility.

15 Q. Okay. And you can't recall whether
16 any of these devices contained e-mail client
17 software; is that correct?

18 A. E-mail client software, in what --
19 can you --

20 Q. Did it have software capable of
21 processing the e-mail?

22 A. Yes, it did, I believe. That is the
23 only way that I could get e-mail information.

24 Q. Okay. And isn't it true you
25 couldn't, you didn't find any e-mail information

1 on the iPhone that you reviewed; is that correct?

2 A. Again, the processing of the e-mail
3 made it very difficult to extrapolate enough
4 information, yes.

5 Q. And that is because Apple encrypts
6 e-mail, correct?

7 A. That's correct.

8 Q. And FBI did not take the effort to
9 decrypt the e-mail; is that correct?

10 A. It is locked down pretty tightly in
11 terms of accessing the e-mail, yes.

12 Q. But you did find e-mail on the, on
13 his Mini, on his personal computer; is that
14 correct?

15 A. Can I clarify?

16 Q. Sure.

17 A. My answer. The first thing is,
18 during the inventory and accountability of that
19 particular iPhone, since it was unlocked, I can
20 physically go through the iPhone and see that
21 there were e-mail on the phone.

22 I could visually observe that there
23 was e-mail on the phone.

24 To logically or physically
25 extrapolate that data in a, into another digital

1 format was the problems that I ran into.

2 So, there was e-mail on the phone.

3 I just could not extrapolate it so
4 that the case agent can review it in our CAIR
5 System.

6 Q. So you did not upload any e-mail for
7 the case agent to review, correct?

8 A. Not from the iPhone.

9 Q. That's correct. But you did from
10 the personal computer?

11 A. Yes, I believe so. And the
12 Cellebrite report contains, again, some
13 information from the iPhone that I was able to
14 extrapolate.

15 Q. Okay. And, do you recall what
16 e-mail client software was used on the personal
17 computer?

18 A. Not to the -- I did not record that,
19 I believe, in my notes, I believe.

20 Q. Okay. So you don't know if it was
21 Apple mail?

22 A. No.

23 Q. Okay.

24 A. In fact, let me see, in my notes, I
25 believe in my notes I think it was Microsoft

1 Office, maybe. It was a client that was used
2 also. But I'm not quite sure.

3 Q. Do you recall whether -- now,
4 Microsoft Office uses file folders to store
5 e-mail; is that correct?

6 A. (Indicating).

7 Q. You have to say yes or no.

8 A. Yes.

9 Q. Do you recall which folders you were
10 able to access?

11 A. No. I didn't.

12 Q. So, now, you are actually trained on
13 Microsoft Outlook; is that correct?

14 A. Basically it is a Wintel platform,
15 so, yes.

16 Q. And when you say Wintel, you mean
17 Windows/Intel, correct?

18 A. Yes.

19 Q. And Outlook is published by
20 Microsoft; is that correct?

21 A. That is correct.

22 Q. And so it runs under Windows; is
23 that correct?

24 A. That's correct.

25 Q. And there is also a version that

1 runs on the Mac under the Apple operating system?

2 A. That's correct.

3 Q. But the Mac version runs
4 substantially the same way as the Windows
5 version, correct?

6 A. Yes.

7 Q. And it has a file folders structure
8 for e-mail; is that right?

9 A. That's correct.

10 Q. And one of the folders would be
11 Inbox, correct?

12 A. That is correct.

13 Q. Another would be Sent Items?

14 A. Yes.

15 Q. Another would be Deleted Items?

16 A. Yes.

17 Q. One would be, another item is Junk
18 Mail, correct?

19 A. Yes.

20 Q. Another could be Spam?

21 A. Absolutely.

22 Q. And you don't recall what item you
23 found, you don't recall what folder you found the
24 e-mail messages in?

25 A. If I can recall, I believe I had to

1 do a, what they call conversion so that the
2 e-mail that was on the laptop could be, in a
3 human readable format.

4 So, I believe in my notes I
5 specified a particular path in which I took to
6 process that conversion process.

7 Q. Does that path tell you what folder
8 it was in?

9 A. It was a general mailbox folder.

10 Q. And one of the Microsoft Outlook
11 standard folders is Draft; is that correct?

12 A. Yes.

13 Q. And so as you sit here today you
14 don't know whether any of the e-mail you
15 processed was in a draft folder, do you?

16 A. I did not delve into that process
17 that deeply, because it was not requested of me
18 at that particular time. Or, for that matter,
19 afterwards.

20 Q. How long did your analysis take of
21 the personal computer?

22 A. It could be a lengthy process based
23 on any issues with the hardware that you
24 encounter during your exam.

25 Q. I mean but I'm asking you for the

1 analysis of Mr. Kesari's laptop. How long did
2 the analysis take?

3 A. It is, I can't recall. But if you
4 look in my notes it does document the time frame
5 in terms of dates. So, maybe, I don't know. I
6 would have to look at my notes.

7 Q. Now did you personally review any of
8 the e-mail that you extracted?

9 A. No, I did not.

10 Q. Did you personally review any of the
11 metadata?

12 A. No, I did not.

13 Q. Okay. And do you know what metadata
14 is?

15 A. Yes, I do.

16 Q. And what is metadata?

17 A. Metadata is information that is
18 associated with a particular file that exchanges
19 information, for example, date, time stamps,
20 geolocation information.

21 Q. Now --

22 A. Extra information basically.

23 Q. And now I believe you, did you issue
24 any other reports in connection with this case
25 other than Exhibits 2 or 4?

1 A. I believe these are the only two
2 report of exams that I generated along with the
3 FTK reports that was mentioned previously.

4 Q. And when you say FTK you mean
5 Forensic Toolkit?

6 A. That is correct, yes.

7 Q. But, other than the Forensic Toolkit
8 report and Exhibits 2 and 4, there are no other
9 reports that you issued?

10 A. The one that was specified earlier,
11 Cellebrite report, no.

12 Q. Okay. Did you analyze any devices
13 that belonged to John Tate?

14 A. No.

15 MR. KRAVIS: Objection, calls for
16 hearsay. Lack of foundation.

17 MR. MILLS: That is all I have, your
18 witness.

19 (Brief discussion off the record.)

20 BY MR. MILLS:

21 Q. Did you review any devices that
22 belonged to John Tate?

23 MR. KRAVIS: Same objections. Lack
24 of foundation, you can answer.

25 THE WITNESS: No.

1 CROSS-EXAMINATION

2 BY MR. BINNALL:

3 Q. Good morning, Agent Yoo. My name is
4 Jesse Binnall. I represent Dimitrios Kesari.

5 The date on the Report of
6 Examination on Government's Exhibit 2, that is
7 August the 17th, 2015, correct?

8 A. That is what the report says, yes.

9 Q. Okay. But the service request was
10 on January the 15th 2014, correct?

11 A. That is correct.

12 MR. KRAVIS: And I'm sorry, counsel,
13 before we continue with the examination, do
14 you mind collecting the exhibits that are in
15 front of the witness, since the reports
16 themselves are hearsay?

17 MR. MILLS: Sure.

18 MR. KRAVIS: Thank you.

19 BY MR. BINNALL:

20 Q. And the items actually received,
21 that was on January the 30th, 2014, correct?

22 A. I need my -- excuse me.

23 Q. Would it refresh your recollection
24 to see the report?

25 A. Which exhibit?

1 Q. Exhibit 2.

2 A. Date item received, is that what you
3 are referring to?

4 Q. Yes.

5 A. Yes, it says January 30th, 2014.

6 Q. Okay. You can go ahead and turn
7 that over if you don't mind.

8 And, in fact, on the second page,
9 you were approached by Special Agent Les Straka
10 at some point regarding this work that you did?

11 A. Yes.

12 Q. And Special Agent Les Straka
13 approached you on June the 10th, 2014, correct?

14 A. If that is what my report says, yes.

15 Q. But you didn't actually prepare this
16 report until August 17th, 2015, correct?

17 A. That is correct.

18 Q. And Agent Yoo, how did you actually
19 received the laptop that you analyzed in
20 Exhibit 2?

21 A. I, the laptop was stored and secured
22 in our evidence control room. I went to the
23 evidence control room, checked it out and started
24 my analysis.

25 Q. Okay. And when did you do that?

1 A. Again, I've got to take a look at my
2 notes. But, I believe the report of exam that
3 specifies the date as Item Received is the
4 correct date for when I checked out the evidence.

5 That date should correspond to the
6 date that is in my notes.

7 Q. Okay. But you don't have any direct
8 knowledge, sitting here today, of exactly when
9 you checked it out?

10 A. I believe that the Item Received
11 date should correspond to the exact date that it
12 was checked out.

13 Q. So you think you checked it out on
14 January the 30th, 2014.

15 What did you do with the computer
16 after you were done uploading it to the CAIR
17 System?

18 A. Again, at the end of my process, I
19 would then make sure and account for everything
20 that is in that particular container, or in this
21 case 1B item. Make sure that if it came with a
22 power cord, it goes with the laptop. And then
23 submit that whole package back into evidence
24 control.

25 Q. You have no idea who handled the

1 computer before you checked it out, correct?

2 A. Based on the chain of custody, I
3 have a name, a date, and a time as to when it was
4 collected, who handled a particular device before
5 I received it.

6 Q. But you don't maintain that chain of
7 custody, correct?

8 A. We maintain, we have copies of that
9 particular chain of custody.

10 Q. Okay. And, where is that chain of
11 custody report now?

12 A. I include a copy of that chain of
13 custody as part of my verification process, and
14 it is within my case notes.

15 Q. Do you know if that report was
16 produced by the Federal Bureau of Investigation
17 to the Public Integrity Section of the Department
18 of Justice?

19 A. What report are you referring to?

20 Q. I'm sorry, the chain of custody
21 report.

22 A. Has it been given to the Department
23 of Justice? Is that what you are saying?

24 Q. Correct.

25 A. A copy of my notes was provided to

1 the Department of Justice. And within that
2 packet should be a copy, yes.

3 Q. Did anyone else other than you
4 handle the computer between the time that you
5 checked it out and checked it back in?

6 A. No. I am, once I take control of
7 the evidence, it is my responsibility to ensure,
8 again, that the integrity is not compromised and
9 a particular item is secured and no one handled
10 it outside from myself.

11 Q. Was the uploading of the computer,
12 was it done all in one day?

13 A. It can stay a couple of days based
14 on how large a file that you are trying to
15 upload. But that whole upload process, again,
16 involves what I specified before, an MD5
17 algorithm check at the end to ensure that what
18 you are uploading is consistent with the
19 beginning and the end.

20 Q. All right. Now, the, when you say
21 that the MD5 algorithm is done at the end, is
22 that algorithm done on the bit-for-bit image that
23 is made or is it done on what is updated to the
24 CAIR System?

25 A. In this particular case, for

1 example, the laptop, the MD5 algorithm check was
2 done post exam.

3 I'm going to refer you to my notes
4 and it does specify when that was done.

5 And any kind of uploading that was
6 done on the CAIR System again, was done at the
7 beginning -- I mean at the end of the process to
8 ensure that all files that were copied or
9 uploaded into the CAIR System was consistent from
10 the beginning of the process.

11 Q. All right. And I'm sorry, I just
12 want to make sure I have your answer right.

13 So, it is done on the image before
14 uploading or after uploading?

15 A. In this particular case,
16 Mr. Kesari's laptop, a final MD5 algorithm was
17 done at the end of my exam, okay. And then
18 during the CAIR process, I believe you will have
19 screen shots of that whole process where it
20 specifies that a certain number of files were
21 copied and that there were no mismatches.

22 Q. Okay. How was the laptop computer
23 stored between the time that you checked it out
24 and you checked it back in?

25 A. Once the archival process is done,

1 and I am satisfied as to the integrity of my
2 copy, the working copy, is an exact duplicate,
3 the laptop is, again, if I have to take it apart,
4 I put it back together, put it back in its
5 package and secure it in a drawer, where it is
6 locked in my cube or in a very secure place where
7 I have only the access to.

8 Q. Okay. And, was that done
9 specifically that with Mr., the computer that you
10 analyzed in regards to Exhibit 2?

11 A. If you are referring to Mr. Kesari's
12 laptop, yes.

13 Q. Well, you never took that laptop
14 from Mr. Kesari, correct?

15 A. No, I did not.

16 Q. Okay. So, the computer that you
17 actually analyzed. Correct?

18 A. Yes. In this particular case, the
19 laptop was not taken apart. Okay.

20 The digital storage media was left
21 intact with the laptop.

22 Q. Okay. And so, from the time that
23 you checked out Mr. Kesari's laptop until the
24 time you checked it back in with evidence, were
25 you with that computer 24/7?

1 A. Physically, no.

2 Q. Okay. When you weren't with the
3 laptop, how was that computer stored?

4 A. Again, it is placed in a secure
5 location, which is my whole office space. And
6 within that my cubical, which has locked drawers,
7 where I can put that particular laptop and lock
8 it overnight.

9 Q. And, did you specifically put, do
10 you remember putting Mr. Kesari's laptop in a
11 locked drawer?

12 A. Yes.

13 Q. Okay. And, you say you have a cube
14 and an office, is there other people within that
15 office environment?

16 A. Yes, in order to enter my office
17 space, which has controlled access, to, you have
18 to card key your way in, and that number of
19 people that has access to that space is extremely
20 limited. And then within that, my cubical and so
21 forth.

22 Q. Okay. And who has a key to the
23 drawer that Mr. Kesari's laptop was stored in?

24 A. Just me.

25 Q. All right.

1 Now, as far as the cell phone with
2 the, that you identified earlier with the serial
3 number Charlie 02 Juliet Golf 3 November 6 Delta
4 Kilo Quebec 2. Do you remember talking about
5 that cellphone?

6 A. Yes.

7 Q. Okay. I'm very sorry. I read off
8 the wrong number. It is actually, I believe,
9 Charlie 39 Hotel Lima 2 X-Ray November Delta
10 Tango Charlie 1. Does that sound right?

11 A. Yes.

12 Q. Okay. Do I understand that you did
13 not create an image of that cellphone?

14 A. That is correct. A physical image
15 was not obtained.

16 Q. Okay. Did you check out that device
17 also on January 30, 2014?

18 A. Can I --

19 Q. Yes, to refresh your recollection,
20 please look at the first page of Government's
21 Exhibit 2.

22 A. January is the item receive date,
23 yes.

24 Q. Is it normal to go almost nineteen
25 months between receiving an item and creating

1 your report?

2 A. No. Not really.

3 Q. Okay. Was the cell phone stored in
4 the same manner that the laptop was stored when
5 you were not with the cell phone after checking
6 it out?

7 A. Yes, I mean, as part of best
8 practices in my field, we are trained from the
9 very beginning that integrity of the evidence is
10 number one priority and you take certain measures
11 to uphold that philosophy throughout the whole
12 exam process.

13 Q. Okay. And do you specifically
14 remember with that phone if you stored it the
15 same way?

16 A. Yes.

17 Q. Okay. Do I understand that you are
18 ill?

19 A. Yes, I am.

20 Q. I am sorry to hear that. Can you
21 please tell me the nature of your illness?

22 MR. KRAVIS: Objection, relevance.

23 THE WITNESS: Currently I am, I have
24 a health condition that precludes me from
25 actually travelling away from this area.

1 BY MR. BINNALL:

2 Q. Okay. I'm sorry, and what is that
3 health condition.

4 MR. KRAVIS: Objection, relevance.

5 THE WITNESS: It is terminal.
6 Cancer.

7 BY MR. BINNALL:

8 Q. I'm very sorry to hear that, sir.
9 Are you on any medications for that?

10 A. Yes. Currently. Excuse me.

11 Q. Yes, please take all of the time you
12 need.

13 A. All right.

14 Q. And, are you currently on any
15 medications?

16 A. Other than chemo, no. Currently,
17 no.

18 Q. Okay. And, have you been on any
19 medication since you prepared this report?

20 A. Again, when I, when that report was
21 created, I was undergoing chemotherapy, yes.

22 Q. I'm very sorry. The, other than
23 chemotherapy, has there been anything else?

24 A. No. But, if you want to clarify my
25 answer, I would be more than willing to and that

1 is when I did the exam for this particular case,
2 I was not under any chemo or any type of, I
3 guess, medication that you are referring to or
4 that you are alluding to.

5 Q. Okay. Thank you.

6 MR. BINNALL: All right, no further
7 questions on behalf of Mr. Kesari.

8 CROSS-EXAMINATION

9 BY MR. HOWARD:

10 Q. Agent Yoo, it is very nice meeting
11 you. My name is Roscoe Howard, I represent
12 Mr. Benton, and if it is okay with you and
13 counsel, can we take a five minutes? I would
14 like to just confer and we will see if we have
15 any questions.

16 MR. KRAVIS: Very well, thank you.

17 THE VIDEOGRAPHER: Going off the
18 record. The time now is 11:09.

19 (Recess taken -- 11:09 a.m.)

20 (After recess -- 11:21 a.m.)

21 THE VIDEOGRAPHER: We are now back
22 on the record. The time now is 11:21.

23 BY MR. HOWARD:

24 Q. All right. Agent Yoo, I have just a
25 few more questions for you.

1 I'm going to--

2 MR. HOWARD: What exhibit are we on?

3 MR. KRAVIS: 5.

4 BY MR. HOWARD:

5 Q. I'm going to mark this as Exhibit 5.

6 (Yoo Exhibit Number 5
7 marked for identification.)

8 BY MR. HOWARD:

9 Q. Agent Yoo, will you take a look at
10 that document, is that the chain of custody
11 document that you mentioned in regards to the
12 laptop computer that you identified earlier as
13 serial number Charlie 02 Juliet Golf 3 November 6
14 Delta Kilo Quebec 2?

15 A. Are you referring to Item 1B44 with
16 that particular serial number?

17 Q. I am. Yes, that would probably be
18 the more efficient way to recognize it.

19 A. And, based on the exhibit that is
20 presented in front of me, for Item 1B44, it looks
21 like our chain of custody.

22 Q. And it looks like you checked that
23 out on or about January 30, 2014, correct?

24 A. Yes.

25 Q. And you checked it back in on

1 February the 7th, 2014?

2 A. Yes.

3 Q. All right. And I'm going to mark
4 this as Exhibit 6.

5 (Yoo Exhibit Number 6
6 marked for identification.)

7 BY MR. HOWARD:

8 Q. And is that the chain of custody
9 form for Item 1B43?

10 A. Yes.

11 Q. Okay.

12 A. It looks like it is a continuation
13 page.

14 Q. Okay. And, have you seen, ever seen
15 a previous page for that document?

16 A. Yes.

17 Q. Okay. Do you know where the
18 previous page of that document is?

19 A. It is with the original evidence.

20 Q. Okay. And what day did you check
21 out Item 1B43?

22 MR. KRAVIS: Objection, the chain of
23 custody log is hearsay. Calls for hearsay.
24 Lack of foundation.

25 BY MR. HOWARD:

1 Q. Okay. Well, Agent Yoo, when did
2 you -- strike that.

3 Agent Yoo, when did you check out
4 Item 1B43?

5 A. According to this particular
6 document, which is a continuation page, it looks
7 like I checked the item out on May 20th, 2015.

8 MR. KRAVIS: Objection, calls for
9 hearsay, lack of foundation.

10 BY MR. HOWARD:

11 Q. Okay. Will you go ahead and turn
12 that page over, please.

13 Agent Yoo, when did you check out
14 Item 1B43?

15 MR. KRAVIS: Objection, vague as to
16 when.

17 THE WITNESS: Based on what I just
18 saw previously, May 2015.

19 BY MR. HOWARD:

20 Q. All right. And when did you check
21 it back in?

22 MR. KRAVIS: Objection, vague as to
23 when.

24 THE WITNESS: I did not note.

25 BY MR. HOWARD:

1 Q. Okay. Strike that. Did you ever
2 check that out and back in?

3 A. Yes, I did.

4 Q. Okay. When did you do that?

5 MR. KRAVIS: Objection, vague as to
6 when and lack of foundation as to whether he
7 checked it in more than once.

8 BY MR. HOWARD:

9 Q. All right. You can answer the
10 question.

11 A. I believe, if I, I believe that in
12 the first page, again this is a continuation
13 page, it documents when that was done.

14 Q. All right. You can go ahead and
15 turn that over, if it will refresh your
16 recollection.

17 A. Again.

18 Q. Does that refresh your recollection?

19 MR. KRAVIS: Objection, lack of
20 foundation. Refreshed recollection as to
21 what? The witness hasn't said he doesn't
22 remember something that he needs to be
23 refreshed with.

24 BY MR. HOWARD:

25 Q. Go ahead, sir.

1 A. It was checked out, checked back in
2 in May, I mean June of 2015.

3 MR. KRAVIS: Objection, lack of
4 foundation. Calls for hearsay. The chain of
5 custody log is hearsay.

6 BY MR. HOWARD:

7 Q. What day in June.

8 MR. KRAVIS: Just same objection.

9 BY MR. HOWARD:

10 Q. Go ahead.

11 A. June 5th, 2015.

12 Q. All right, sir. Had you ever
13 checked that item out prior to that?

14 A. Yes.

15 Q. Okay. To your knowledge, has the
16 chain of custody form been produced from the FBI
17 to the Public Integrity Section of the Department
18 of Justice that shows when you had previously
19 checked that out or not?

20 MR. KRAVIS: Objection. Lack of
21 foundation. You can answer if you know.

22 THE WITNESS: As I stated before, a
23 copy of my cart exam notes was provided and
24 within this package this continuation page
25 was provided.

1 The only reason this continuation
2 page was in this notes and not the first page
3 is just to note the final disposition of that
4 particular 1B item number.

5 BY MR. HOWARD:

6 Q. Okay. But my question was very
7 specifically, do you know if any previous pages
8 of the chain of custody form for 1B43 were ever
9 given by the FBI to the Public Integrity Section
10 of the Department of Justice?

11 MR. KRAVIS: Same objection.

12 THE WITNESS: I have no knowledge of
13 that.

14 BY MR. HOWARD:

15 Q. Okay. And you don't have a copy of
16 the previous chain of custody pages with you here
17 today, correct?

18 A. That is correct.

19 MR. HOWARD: All right. That is all
20 of the questions I have.

21 CROSS-EXAMINATION

22 BY MS. SINFELT:

23 Q. Good morning, Agent Yoo. My name is
24 Meena Sinfelt and I am one of the attorneys for
25 defendant Jesse Benton. I just have a few

1 questions for you, okay.

2 I believe earlier in your testimony
3 you referred to MD5 which is known as a
4 cryptographic hash algorithm; is that correct?

5 A. It is a mathematical algorithm,
6 that's correct.

7 Q. Okay. And that is used to make sure
8 that content is not changed while you are doing
9 your analysis; is that correct?

10 A. It is a check, yes.

11 Q. Okay. But isn't it true that MD5
12 cannot tell whether the content was altered
13 before you start your analysis; is that correct?

14 A. That is correct.

15 Q. Okay. Thank you, no further
16 questions.

17 MR. KRAVIS: Special Agent Yoo, I
18 have just a few final questions for you.

19 REDIRECT EXAMINATION

20 BY MR. KRAVIS:

21 Q. First, you were asked on
22 cross-examination about your illness. Do you
23 remember those questions?

24 A. Yes.

25 Q. During the time that you examined

1 the computer and the phone that we have been
2 talking about here today, were you still able to
3 do your job as an FBI forensic examiner
4 notwithstanding your illness?

5 A. Yes.

6 Q. And, in fact, you continue to work
7 as an FBI forensic examiner today?

8 A. Yes.

9 Q. You were asked a few questions on
10 cross-examination about the location of
11 particular e-mails within the computer. Do you
12 remember those questions?

13 A. Yes.

14 Q. Is it your job as an FBI Forensic
15 Examiner to look through the devices that you
16 examined to find particular e-mails?

17 A. No. It is not my responsibility.

18 Q. What is your job as an FBI Forensic
19 Examiner with respect to these items?

20 A. My responsibility is, again, to make
21 sure that the integrity of the evidence is
22 maintained throughout the whole process and
23 parsing through the material for case agent
24 review.

25 I am not responsible for determining

1 what is pertinent, what is not pertinent. Unless
2 it is specifically requested by the case agent.

3 Q. You were also asked on
4 cross-examination a few questions about the
5 timing of your work in this case. Do you
6 remember those questions?

7 A. Yes.

8 Q. If you remember, when was it that
9 you were first asked to work on the items of
10 evidence that we have been talking about here
11 today? The cell phone and the computer?

12 A. That date would correspond with the
13 date that I checked out the evidence or a couple
14 of days prior to.

15 Q. And, would that date be reflected on
16 the report that you prepared?

17 A. Yes, to some degree.

18 The date that you see when items
19 were received, is the date that I would actually
20 physically check out the evidence, out of the
21 evidence control to start my analysis.

22 Q. Do you remember, as you sit here
23 today, what that date was for the cell phone and
24 computer we have been talking about today?

25 A. Not off -- directly off of my head,

1 no.

2 Q. Would the report refresh your
3 recollection?

4 A. Yes.

5 Q. I'm going to show you what has been
6 marked for identification as Government's
7 Exhibit 2.

8 I want you to look at that report
9 and don't say anything, when you finish looking
10 at the report, go ahead and look up at me.

11 A. All right. Okay.

12 Q. Okay. And now I'm taking back to
13 you Government's Exhibit Number 2. Does that
14 refresh your recollection as to when you received
15 the items and began your work in this case?

16 A. Yes, I did.

17 Q. And when was that?

18 A. January 30th, 2014.

19 Q. And how soon after you received the
20 items from evidence control, January 30th, 2014,
21 how soon after that did you start your work in
22 this case?

23 A. Pretty quickly. But shortly
24 thereafter.

25 Q. When you say shortly thereafter, do

1 you mean a matter of days, weeks, months, just
2 ballpark.

3 A. Probably that day.

4 Q. And you were asked about the date on
5 your report, which is August 17th of 2015. Why
6 is it that if you began your work in January of
7 2014, the date of the report is actually
8 August of 2015. Can you explain that?

9 A. Due to logistical reasons, the
10 review process can be quite lengthy. So, the
11 case agent, based on his or her case load may
12 take a long time to review the material that I
13 provide on the CAIR System.

14 And, that could be one of the
15 reasons. Another reason could be that there
16 might be technical issues that I have to overcome
17 to ensure, again, that what I am providing to the
18 case agent is not compromised in any way, or is
19 in a format that is readable to the end user.

20 Q. Finally, you were asked some
21 questions on cross-examination about the FBI not
22 taking the effort to decrypt the e-mails in the
23 cell phone. Do you remember those questions?

24 A. Yes.

25 Q. Now, Special Agent Yoo, are there

1 out there in the world more aggressive search
2 techniques that you could have used on the
3 cellphone in order to potentially generate more
4 material?

5 A. Yes.

6 MR. HOWARD: Objection. Objection.

7 MR. KRAVIS: What is the basis?

8 MS. SINFELT: Foundation.

9 MR. HOWARD: Foundation, irrelevant.

10 BY MR. KRAVIS:

11 Q. Special Agent Yoo, are you a
12 certified digital forensic examiner?

13 A. Yes.

14 Q. Do you have personal experience with
15 the various tools that can be used to examine a
16 cell phone.

17 A. Yes.

18 Q. Based on your personal experience
19 with those kind of tools, are there software
20 tools available, are there search tools available
21 that you could have used to potentially get more
22 information off the cell phone?

23 MR. HOWARD: Objection, irrelevant.

24 BY MR. KRAVIS:

25 Q. You can answer.

1 A. Yes.

2 Q. Why didn't you use those tools in
3 this case?

4 MR. HOWARD: Objection, irrelevant.

5 BY MR. KRAVIS:

6 Q. You can answer.

7 A. Because I did not want to introduce
8 any artifacts where I am compromising the
9 integrity of that particular digital storage
10 media evidence.

11 MR. KRAVIS: Thank you, I have no
12 further questions.

13 FURTHER CROSS-EXAMINATION

14 BY MR. MILLS:

15 Q. I just have a couple of follow up
16 questions on Exhibit Number 6.

17 Agent Yoo, could you turn Exhibit
18 Number 6 over.

19 Exhibit Number 6 is a chain of
20 custody report; is that correct?

21 A. It is a chain of custody, yes.

22 Q. And it is on a preprinted FBI form,
23 correct?

24 A. Can you clarify preprinted?

25 Q. Okay. It is on a form, correct?

1 A. Yes.

2 Q. And is that a form that you are
3 provided with at work by the FBI?

4 A. Yes.

5 Q. And isn't it true it is your job to
6 keep track of the chain of custody evidence that
7 you review, correct?

8 A. Yes.

9 Q. Okay. And it is your job to make a
10 record of the evidence that you review; is that
11 right?

12 A. Yes.

13 Q. And Exhibit 6 is an example of a
14 record that you kept in the normal course of your
15 regularly conducted business practices of the
16 evidence you reviewed, right?

17 A. The official record is the one that
18 is maintained with the evidence. This is just a
19 reflection of that particular document.

20 Q. Okay. And this is a record that you
21 kept, that is your handwriting on Exhibit 6,
22 correct?

23 A. Yes.

24 Q. Okay. And did you make the entry at
25 or near the time you put the device back in

1 storage?

2 A. That is the final disposition or the
3 last time I handled the evidence.

4 Q. Okay. And, Exhibit 6 is something
5 that you gave to the Department of Justice as a
6 record of the chain of custody in this case,
7 correct?

8 A. As part of my case notes.

9 Q. Okay. Move to admit Exhibit 6.

10 MR. KRAVIS: Objection on the ground
11 that the witness has already stated that
12 Exhibit 6 is not the complete chain of
13 custody form for the item of evidence at
14 issue here.

15 MR. MILLS: Okay. Nothing further
16 for me.

17 FURTHER REDIRECT EXAMINATION

18 BY MR. KRAVIS:

19 Q. I have a few additional questions.
20 Special Agent Yoo, I'm going to show you what is
21 marked as exhibit, it doesn't say whose, but
22 Exhibit 5. But, do you recognize Exhibit 5?

23 A. Yes.

24 Q. What is Exhibit 5?

25 A. Exhibit 5 is the FBI Evidence Chain

1 of Custody. It is the very first page.

2 Q. And, is this the same kind of
3 document that you were just talking about with
4 respect to Exhibit 6?

5 A. Yes.

6 Q. Same in terms of how it is prepared,
7 and so on and so forth?

8 A. That is correct.

9 Q. Okay. And, just for the record,
10 what is the 1B item number that Exhibit 5 is the
11 chain of custody for?

12 A. 1B44.

13 Q. And, do you remember which item 1B44
14 is?

15 A. I believe that is the laptop. 1B44.

16 Q. You answered with some hesitation in
17 your voice. Are you sure or not sure?

18 A. I'm not sure. I could look on my --

19 Q. Would your report refresh your
20 recollection?

21 A. Yes.

22 Q. Okay. I'm going to show you again,
23 Special Agent Yoo, Government's Exhibit 2, direct
24 your attention to the middle of the page. I want
25 you to read Government's Exhibit 2. See if it

1 refreshes your recollection as to which item is
2 1B44. Don't say anything. Look up at me when
3 you've had a chance.

4 Does that refresh your recollection
5 as to which item is 1B44 as to the item to which
6 Exhibit 5 corresponds?

7 A. Yes.

8 Q. And what is it?

9 A. It is the Apple laptop.

10 MR. KRAVIS: Thank you, I have no
11 further questions.

12 THE VIDEOGRAPHER: Going off the
13 record, the time now is 11:36.

14 (Whereupon, signature having been waived,
15 the deposition concluded at 11:36 a.m.)

16 * * *

1 CERTIFICATE OF COURT REPORTER

2 UNITED STATES OF AMERICA)

3 DISTRICT OF COLUMBIA)

4 I, LORI J. GOODIN, the reporter before
5 whom the foregoing deposition was taken, do
6 hereby certify that the witness whose testimony
7 appears in the foregoing deposition was sworn by
8 me; that the testimony of said witness was taken
9 by me in machine shorthand and thereafter
10 transcribed by computer-aided transcription; that
11 said deposition is a true record of the testimony
12 given by said witness; that I am neither counsel
13 for, related to, nor employed by any of the
14 parties to the action in which this deposition
15 was taken; and, further, that I am not a relative
16 or employee of any attorney or counsel employed by
17 the parties hereto, or financially or otherwise
18 interested in the outcome of this action.

19
20 _____
21 LORI J. GOODIN

22 Notary Public in and for the
23 District of Columbia

24 My Commission expires:

25 May 14, 2016

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